

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COLUMBIA PICTURES INDUSTRIES, INC., : Case No.: 07 CIV 3597 (LTS)
SONY PICTURES RELEASING CORPORATION, :
SONY PICTURES HOME ENTERTAINMENT INC., :
and MARVEL CHARACTERS, INC., :
:

Plaintiff, :

-against- :

JOHN and JANE DOE Nos. 1 through 100, and XYZ :
Company Nos. 1 through 100, :

Defendants. :
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DECLARATION

SIDNEY A. WEISBERG declares as follows:

1. I am the attorney for the moving Defendants in this action seeking to dismiss the Amended Complaint pursuant to Fed. R.Civ.R.12(b)(6) namely, that the Amended Complaint fails to state a cause of action against the moving Defendants.

2. On May 30, 2007, a hearing was held on the Plaintiffs motion for a Preliminary Injunction. On that day, in open Court, evidence was adduced from the Plaintiffs and testimony from the Defendants and after the court heard the testimony and reviewed the documentary evidence, she issued an order on the record denying the Plaintiff's motion for a preliminary injunction against the moving Defendants.

3. On May 31, 2007, I called the attorney for the Plaintiffs, W. Drew Kastner, Esq. and suggested that perhaps we should resolve the issues between ourselves. He stated he would submit a proposal to me for settlement the following week. No such proposal was forthcoming.

4. On June 8, 2007 I sent to Mr. Kastner a letter by fax and overnight mail

suggesting a resolution of the issues between the parties. A copy of this letter is annexed hereto as ***Exhibit A***.


5. On June 14, 2007 I had a discussion with Mr. Kastner and he indicated that his client was not interested in resolving the issues between the parties. He confirmed his clients position with a letter dated June 14, 2007. A copy of the June 14, 2007 letter is annexed hereto as ***Exhibit B***.

6. This declaration is submitted in compliance with Rule 2B of the individual practices of U.S. District Court Judge Laura Taylor Swain.

WHEREFORE, it is respectfully requested that this Court grant the instant motion to dismiss the Amended Complaint together with such other and further relief as to this Court may seem just and proper.

I hereby declare under the laws of the United States of America that the foregoing statements are true and correct.

Dated: Great Neck, NY
June 18, 2007


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